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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,369	07/02/2003	Kenneth J. Hicks	RHWH-0106	3673
20558	7590	01/09/2004	EXAMINER	
KONNEKER & SMITH P. C. 660 NORTH CENTRAL EXPRESSWAY SUITE 230 PLANO, TX 75074			WILSON, GREGORY A	
		ART UNIT	PAPER NUMBER	
			3749	

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/612,369	HICKS ET AL.
	Examiner Gregory A. Wilson	Art Unit 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 02 July 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8, 10-22, 26 and 29 is/are rejected.
- 7) Claim(s) 23-25, 27 and 28 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-22, 26, and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over **Murphy et al (6,164,333)**. **Murphy et al** discloses a convection heat trap for a water heater having a tank and heater for heating water which includes heat trap for the water heater, cold water or hot water outlet where the heat trap includes a tubular body (42) extending along an axis, a resilient flapper structure (36) carried by the body and having portions transversely extending across the interior of the body (SEE Figure 1 & 2) from a hinged location (SEE Figure 6), the flap is axially deflectable relative to the tubular body and defines a circumferential gap with the interior side surface of the tubular body; the tubular body has an outwardly projecting end flange portion (28) integrally formed with the tubular body, a slot (34) extending radially inwardly through a side wall portion, a generally tubular exterior resilient seal (38) extending across the body wherein the flapper extends through the slot, and a dip tube (46) is received in the tubular body (SEE Figure 1). **Murphy et al** teaches the use of a singular flapper structure and does not specifically recite multiple flapper structures axially offset from one another. It would have been an obvious matter of design choice to modify convection heat trap of **Murphy et al** by having multiple flapper structures axially offset

from one another, since it has been held that a mere duplication of the essential working parts of a device involves only routine skill in the art and the applicant has not disclosed that having these multiple flappers solves any stated problem or is for any particular purpose and it appears that convection heat trap would perform equally well with one or more flapper structures. In regard to claims 4-6 and 18-20, **Murphy et al** furthermore does not disclose that the end flange portion has a noncircular rotational driving structure formed on an outer side thereof. To provide a hexagonal, square, or rectangular driving structure for the purpose of supporting a tool to assemble/disassemble the convection heat trap would have been an obvious matter of design choice since it has been held that to make a provision of adjustability (in this case assembling or disassembling), where needed involves only routine skill in the art.

Allowable Subject Matter

Claims 9, 23-25, 27, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A. Wilson whose telephone number is (703) 308-1239. The examiner can normally be reached on 7 am - 4:30 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703)308-7764.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

Gregory A. Wilson
Gaw
January 7, 2004